

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

MARK R. MANESS,

Respondent.

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\* Misc. No.: 08-0017-KD-M

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**ORDER**

By order dated October 8, 2008 respondent, Mark R. Maness, was ordered to appear before this court on December 10, 2008 to show cause why he should not be compelled to obey the Internal Revenue Service summons served upon him. Mr. Maness failed to appear before the court on December 10, 2008 as ordered and was found by the undersigned to be in civil contempt.<sup>1</sup> A bench warrant was issued for Mr. Maness, to be served by the United States Marshall on Thursday, December 11, 2008.

Because incarceration is a possible coercive sanction in a civil contempt proceeding Mr. Maness is entitled to have counsel to represent him at the hearing. See U.S. v. McAnlis, 721 F.2d 334, 337 (11<sup>th</sup> Cir. 1983) citing Lassiter v. Department of Social Services of Durham County, North Carolina, 452 U.S. 18, 25, 101 S.Ct. 2153, 2158, 68 L.Ed.2d 640 (1981) (“The

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<sup>1</sup> Civil contempt is defined as the “willfull, continuing failure or refusal of any person to comply with a court's lawful writ, subpoena, process, order, rule, or command that by its nature is still capable of being complied with.” Ala. R. Civ. P. 70A(a)(2)(D). “ ‘Civil contempt seeks to compel or coerce compliance with orders of the court .... The sanction for civil contempt continues indefinitely until the contemnor performs as ordered.’ ” Hall v. Hall, 892 So.2d 958, 961 (Ala.Civ.App.2004)(quoting State v. Thomas, 550 So.2d 1067, 1072 (Ala.1989)).

right to counsel exists if the litigant may lose his physical liberty if he loses the litigation.”)

Accordingly, the undersigned hereby appoints Arthur Madden, Esq., as standby counsel for Mr. Maness during this civil contempt proceeding. If Mr. Maness requests counsel and qualifies for appointed counsel, Mr. Madden will be appointed for the duration of this matter.

**DONE** and **ORDERED** this the 10<sup>th</sup> day of December, 2008.

/s/ Kristi K. DuBose

**KRISTI K. DuBOSE**

**UNITED STATES DISTRICT JUDGE**